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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,059	02/16/2001	David Frederick Bantz	YOR920000804US1	5389

7590

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EXAMINER

ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,059

Applicant(s)

BANTZ ET AL.

Examiner

Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicant's Response, filed on 03/22/2005.
2. Claim 1-33 remain pending.
3. The rejection to claims 1-33 under 35 U.S.C. 103 (a) as being unpatentable over Herschkorn (U.S. Pat. No. 6,691,094) in view of Baldwin et al. (6,310,952) as set forth in the office action mailed on 12/08/2004 is maintained.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herschkorn (U.S. Pat. No. 6,691,094) in view of Baldwin et al. (6,310,952).

As per claims 1, 3, 7-9, and 11 Herschkorn substantially discloses a bank loan trading system/method that utilizes an electronic facility to facilitate the trading of bank loans. Sellers (or service providers) and buyers enter offers and bids (or plurality of service providers or banks) that are posted to all potential buyers and sellers, unless the

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orders are undisclosed (which is readable as Applicant=s claimed invention wherein said a method of providing service provider information (bank loans) to a client device in a distributed computer system) comprising:

obtaining at least bids from a plurality of service providers for providing a service (see., abstract, col 4, lines 63-67, col 5, lines 1-8, lines 14-28, col 6, lines 5-16, col 10, lines 37-58, col 11, lines 25-67);

providing the bids from the plurality of service providers (abstract, col 5, lines 1-8, lines 14-28, col 6, lines 5-16, col 10, lines 37-58, col 11, lines 25-67).

It is to be noted that Herschkorn fails to explicitly disclose an estimated time completion for the service. However, Baldwin discloses a method/system for providing easy access to a service provider that provides service over a communications system. A queue 27 informs a caller (or seller) of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the online bank loan trading system of Herschkorn by including the limitation detailed above as taught by Baldwin because such modification would provide automated access to service providers based upon an estimated amount of time.

As per claim 2, Herschkorn discloses the claimed method of determining a service provider rating for each of the plurality of service providers; and providing the service

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provider rating for each of the plurality of service providers to the client or customers device (see., col 1, lines 55-67, col 2, lines 13-18, col 3, lines 66 and 67, col 4, lines 1-14).

As per claim 4, Herschkorn discloses the claimed method wherein the at least one bid includes a price for providing the service (see., abstract, col 5, lines 14-28).

As per claims 5, and 6 Herschkorn discloses the claimed method as stated in claims 1 and 4 above. It is to be noted that Herschkorn fails to explicitly disclose an estimated time completion for the service. However, Baldwin discloses a method/system for providing easy access to a service provider that provides service over a communications system. A queue 27 informs a caller of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the online bank loan trading system of Herschkorn by including the limitation detail above because such modification would provide automated access to service providers based upon an estimated amount of time.

As per claim 10, Baldwin discloses the claimed method wherein the electronic marketplace provider is present on a proxy server or queuing system 16 (see., see., Fig

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1, col 3, lines 21-67, col 4, lines 1-15, please note that the proxy server is readable as the queuing system 16 since it provides user=s identification, such as caller=s or user=s name, address, and phone number).

As per claims 12, 14, 16-20, 22, 23, 24, 25, 27-31, and 33 Herschkorn substantially discloses the claimed apparatus of conducting a time-auction among queuing customers. A bid is received from one of the queuing customers and compared with the prices being offered by the other customers waiting in line. The queuing showing a user=s updated position in the queue due to having bid a higher rate to receive services from the information provider (which is readable as Applicant=s claimed invention wherein said an apparatus of providing service provider information to a client device in a distributed computer system) comprising:

a first interface or first instructions (see., abstract, col 4, lines 63-67, col 5, lines 1-8, lines 14-28, col 6, lines 5-16, col 10, lines 37-58, col 11, lines 25-67);

a second interface or second instructions (see., abstract, col 5, lines 1-8, lines 14-28, col 6, lines 5-16, col 10, lines 37-58, col 11, lines 25-67). It is to be noted that Herschkorn fails to explicitly disclose an estimated time completion or calculating an estimated time for the service. However, Baldwin discloses a method/system for providing easy access or third instructions to a service provider that provides service over a communications system. A queue 27 informs a caller (or seller) of an estimated amount of time before the caller will reach the top of the queue. A set of information includes information such as the name of the caller, the amount of money the caller is

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willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the online bank loan trading system of Herschkorn by including the limitation detailed above because such modification would provide automated access to service providers based upon an estimated amount of time.

As per claims 13, 15, and 16 Herschkorn discloses the claimed limitations wherein the processor determines a service provider rating for each of the plurality of service providers and the second interface provides the service provider rating for each of the plurality of service providers to the client device or customer (see., col 1, lines 55-67, col 2, lines 13-18, col 3, lines 66 and 67, col 4, lines 1-14).

As per claim 21, Baldwin discloses the claimed limitations wherein the electronic marketplace provider is present on a proxy server or queuing system 16 (see., see., Fig 1, col 3, lines 21-67, col 4, lines 1-15, please note that the proxy server is readable as the queuing system 16 since it provides user=s identification, such as caller=s or user=s name, address, and phone number).

As per claim 32, Herschkorn discloses the claimed limitations wherein the electronic marketplace provider is present on a proxy server or queuing system 16 (see., col 7, lines 44-67, col 16, lines 1-22, specifically user authentication security measures).

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RESPONSE TO ARGUMENTS

6. Applicant's arguments filed on 03/22/2005 have been fully considered but they not persuasive.

REMARKS

7. In response to Applicant's arguments, Applicant argues that the prior art of record (Herschkorn and Baldwin) fail to anticipate or render obvious the recited feature:

a. " In Herschkorn, the seller of the bank loan is an assignee of an existing loan that was previously established with a borrower based on particular terms. However, the Examiner respectfully disagrees with this assertion since Herschkorn discloses a bank loan trading system/method that utilizes an electronic facility to facilitate the trading of bank loans. Sellers (or service providers) and buyers enter offers and bids (or plurality of service providers or banks) that are posted to all potential buyers and sellers. Accordingly, the bank loans are readable as a plurality of service providers that provide a plurality of bank loans to buyers and sellers. Moreover, it is obvious to recognize that bank loans (such as LENDINGTREE.COM) always require a time completion (or a time expiration) for the service because it is a common business practice.

b. "estimated time completion". As indicated above, Herschkorn fails to explicitly disclose an estimated time completion for the service. However, Baldwin discloses a method/system for providing easy access to a service provider that provides service over a communications system. A queue 27 informs a caller (or seller) of an estimated amount of time before the caller will reach the top of the queue. A set of information

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includes information such as the name of the caller, the amount of money the caller is willing to pay, or bid, for a queue (see., Baldwin, col 4, lines 33-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the online bank loan trading system of Herschkorn by including the limitation detailed above as taught by Baldwin because such modification would provide automated access to service providers based upon an estimated amount of time.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Primary Patent examiner

May 23, 2005